

§ 555.104

(B) For business organizations, the certified statement of intended use must specify the taxpayer identification number, the identity and the principal and local places of business.

(C) The licensee or holder of a user permit purchasing explosive materials must revise the furnished copy of the certified statement only when the information is no longer current.

(3) *Delivery of explosive materials by a common or contract carrier.* When a common or contract carrier will transport explosive materials from a distributor to a distributee who is a licensee or holder of a user permit, the distributor must obtain an executed ATF F 5400.8, Explosives Delivery Record, from the common or contract carrier before relinquishing possession of the explosive materials.

(i) The common or contract carrier must complete Section A of Form 5400.8.

(ii) The distributor must verify the identity of the person accepting possession for the common or contract carrier by examining an identification document (as defined in § 555.11) and noting in Section B of Form 5400.8 the type of document presented. The distributor must complete all other information required on Form 5400.8.

(iii) The distributor must maintain Form 5400.8 in his permanent records in accordance with § 555.121.

(4) *User-limited permit transactions.* A user-limited permit issued under the provisions of this part is valid for only a single purchase transaction and is not renewable (see § 555.51). Accordingly, at the time a user-limited permittee orders explosive materials, the licensed distributor must write on the front of the user-limited permit the transaction date, his signature, and the distributor's license number prior to returning the permit to the user-limited permittee.

(Approved by the Office of Management and Budget under control number 1140-0079)

[ATF No. 1, 68 FR 13787, Mar. 20, 2003]

§ 555.104 Certified copy of license or permit.

Except as provided in § 555.49(a), each person issued a license or permit under this part shall be furnished together with his license or permit a copy for

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his certification. If a person desires an additional copy of his license or permit for certification and for use under § 555.103, he shall:

(a) Make a reproduction of the copy of his license or permit and execute the certification on it;

(b) Make a reproduction of his license or permit, enter on the reproduction the statement: "I certify that this is a true copy of a (*insert the word license or permit*) issued to me to engage in the specified business or operations", and sign his name next to the statement; or

(c) Submit a request, in writing, for certified copies of his license or permit to the Chief, Firearms and Explosives Licensing Center. The request will show the name, trade name (if any), and address of the licensee or permittee and the number of copies of the license or permit desired. There is a fee of \$1 for each copy of a license or permit issued by the Chief, Firearms and Explosives Licensing Center under this paragraph. Fee payment must accompany each request for additional copies of a license or permit. The fee must be paid by (1) cash, or (2) money order or check made payable to the Bureau of Alcohol, Tobacco and Firearms.

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-290, 54 FR 53054, Dec. 27, 1989]

§ 555.105 Distributions to nonlicensees, nonpermittees, and limited permittees.

(a) *Distributions to nonlicensees and nonpermittees prior to May 24, 2003.* (1) This section will apply in any case where distribution of explosive materials to the distributee is not otherwise prohibited by the Act or this part.

(2) Except as provided in paragraph (a)(3) of this section, a licensed importer, licensed manufacturer, or licensed dealer may distribute explosive materials to a nonlicensee or nonpermittee if the nonlicensee or nonpermittee is a resident of the same State in which the licensee's business premises are located, and the nonlicensee or nonpermittee furnishes to the licensee the explosives transaction record, ATF F 5400.4, required by § 555.126. Disposition of ATF F 5400.4 will be made in accordance with § 555.126.

(3) A licensed importer, licensed manufacturer, or licensed dealer may sell or distribute explosive materials to a resident of a State contiguous to the State in which the licensee's place of business is located if the purchaser's State of residence has enacted legislation, currently in force, specifically authorizing a resident of that State to purchase explosive materials in a contiguous State and the purchaser and the licensee have, prior to the distribution of the explosive materials, complied with all the requirements of paragraphs (a)(2), (a)(5), and (a)(6) of this section applicable to intrastate transactions occurring on the licensee's business premises.

(4) A permittee may dispose of surplus stocks of explosive materials to a nonlicensee or nonpermittee if the nonlicensee or nonpermittee is a resident of the same State in which the permittee's business premises or operations are located, or is a resident of a State contiguous to the State in which the permittee's place of business or operations are located, and if the requirements of paragraphs (a)(2), (a)(3), (a)(5), and (a)(6) of this section are fully met.

(5) A licensed importer, licensed manufacturer, or licensed dealer selling or otherwise distributing explosive materials to a business entity must verify the identity of the representative or agent of the business entity who is authorized to order explosive materials on behalf of the business entity. Each business entity ordering explosive materials must furnish the distributing licensee prior to or with the first order of explosive materials a current certified list of the names of representatives or agents authorized to order explosive materials on behalf of the business entity. The business entity ordering explosive materials is responsible for keeping the certified list current. A licensee may not distribute explosive materials to a business entity on the order of a person whose name does not appear on the certified list.

(6) Where the possession of explosive materials is transferred at the distributor's premises, the distributor must in all instances verify the identity of the person accepting possession on behalf of the distributee before relinquishing possession. Before the delivery at the

distributor's premises of explosive materials to an employee of a nonlicensee or nonpermittee, or to an employee of a common or contract carrier transporting explosive materials to a nonlicensee or nonpermittee, the distributor delivering explosive materials must obtain an executed ATF F 5400.8 from the employee before releasing the explosive materials. The ATF F 5400.8 must contain all of the information required on the form and by this part. (See examples in § 555.103(a)).

(7) A licensee or permittee disposing of surplus stock may sell or distribute commercially manufactured black powder in quantities of 50 pounds or less to a nonlicensee or nonpermittee if the black powder is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in 18 U.S.C. 921(a)(16), or in antique devices as exempted from the term "destructive device" in 18 U.S.C. 921(a)(4).

(b) *Distributions to holders of limited permits on and after May 24, 2003.* (1) This section will apply in any case where distribution of explosive materials to the distributee is not otherwise prohibited by the Act or this part.

(2) A licensed importer, licensed manufacturer or a licensed dealer may distribute explosive materials to a holder of a limited permit if such permittee is a resident of the same State in which the licensee's business premises are located, the holder of the limited permit presents in person or by mail ATF Form 5400.4, Limited Permittee Transaction Report (LPTR), and the licensee completes Form 5400.4 in accordance with § 555.126(b). In no event will a licensee distribute explosive materials to a holder of a limited permit unless the holder presents a Form 5400.4 with an original unaltered and unexpired Intrastate Purchase of Explosives Coupon (IPEC), ATF Form 5400.30, affixed. The coupon must bear the name, address, permit number, and the coupon number of the limited permittee seeking distribution of the explosives.

(3) A holder of a limited permit is authorized to receive explosive materials from a licensee or permittee whose premises are located in the same State of residence in which the premises of

the holder of the limited permit are located on no more than 6 separate occasions during the one-year period of the permit. For purposes of this section, the term “6 separate occasions” means six deliveries of explosive materials. Each delivery must—

(i) Relate to a single purchase transaction made on one ATF F 5400.4;

(ii) Be referenced on one commercial invoice or purchase order; and

(iii) Be delivered to the holder of the limited permit in one shipment delivered at the same time.

(4) A holder of a user permit may dispose of surplus stocks of explosive materials to a licensee or holder of a user permit, or a holder of a limited permit who is a resident of the same State in which the premises of the holder of the user permit are located. A holder of a limited permit may dispose of surplus stocks of explosive materials to another holder of a limited permit who is a resident of the same State in which the premises of the distributor are located, if the transaction complies with the requirements of paragraph (b)(2) of this section and § 555.126(b). A holder of a limited permit may also dispose of surplus stocks of explosive materials to a licensee or holder of a user permit if the disposition occurs in the State of residence of the holder of the limited permit. (See § 555.103.)

(5) Each holder of a limited permit ordering explosive materials must furnish the distributing licensee prior to or with the first order of the explosive materials a current list of the names of employees authorized to accept delivery of explosive materials on behalf of the limited permittee. The distributee ordering explosive materials must keep the list current and provide updated lists to licensees and holders of user permits on a timely basis. A licensed importer, licensed manufacturer, licensed dealer, or permittee, selling or otherwise distributing explosive materials to a holder of a limited permit must, prior to delivering the explosive materials, obtain from the limited permittee a current list of persons who are authorized to accept deliveries of explosive materials on behalf of the limited permittee. A licensee or permittee may not deliver explosive materials to

a person whose name does not appear on the list.

(6)(i) *Delivery at the distributor's premises.* Where possession of explosive materials is transferred directly to the distributee at the distributor's premises, the distributor must obtain an executed Form 5400.4 in accordance with § 555.126(b) and must in all instances verify the identity of the person accepting possession on behalf of the distributee by examining an identification document (as defined in § 555.11) before relinquishing possession.

(ii) *Delivery by distributor.* Where possession of explosive materials is transferred by the distributor to the distributee away from the distributor's premises, the distributor must obtain an executed Form 5400.4 in accordance with § 555.126(b) and must in all instances verify the identity of the person accepting possession on behalf of the distributee by examining an identification document (as defined in § 555.11) before relinquishing possession.

(iii) *Delivery by common or contract carrier hired by the distributor.* Where a common or contract carrier hired by the distributor will transport explosive materials from the distributor to a holder of a limited permit, the limited permittee will, prior to delivery of the explosive materials, complete the appropriate section on Form 5400.4, affix to the Form 5400.4 one of the six IPECs he has been issued, and provide the form to the distributor in person or by mail. Before the delivery at the distributor's premises of explosive materials to the common or contract carrier who will transport explosive materials to a limited permittee, the distributor must obtain an executed ATF Form 5400.8, Explosives Delivery Record, from the common or contract carrier before releasing the explosive materials. Form 5400.8 must contain all of the information required on the form and by this part. At the time of delivery the common or contract carrier, as agent for the distributor, must verify the identity of the person accepting delivery on behalf of the distributee, note the type and number of the identification document and provide this information to the distributor. The distributor will enter this information in the appropriate section on Form 5400.4.

Form 5400.8 must be attached to the distributor's copy of the Form 5400.4 and retained in his permanent records in accordance with § 555.121.

(iv) *Delivery by common or contract carrier hired by the distributee.* Where a common or contract carrier hired by the distributee will transport explosive materials from the distributor to the holder of a limited permit, the holder of the limited permit will, prior to delivery of the explosive materials, complete the appropriate section on Form 5400.4, affix to the Form 5400.4 one of the six IPECs he has been issued, and provide the form to the distributor in person or by mail. Before the delivery at the distributor's premises to the common or contract carrier who will transport explosive materials to the holder of a limited permit, the distributor must obtain an executed ATF Form 5400.8, Explosives Delivery Record, from the common or contract carrier before releasing the explosive materials. Form 5400.8 must contain all of the information required on the form and by this part. Form 5400.8 must be attached to the distributor's copy of the Form 5400.4 and retained in his permanent records in accordance with § 555.121.

(7) A licensee or permittee disposing of surplus stock may sell or distribute commercially manufactured black powder in quantities of 50 pounds or less to a holder of a limited permit, nonlicensee, or nonpermittee if the black powder is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in 18 U.S.C. 921(a)(16), or in antique devices as exempted from the term "destructive device" in 18 U.S.C. 921(a)(4).

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§ 555.106 Certain prohibited distributions.

(a) A licensee or permittee may not distribute explosive materials to any person except—

- (1) A licensee;
- (2) A holder of a user permit; or
- (3) A holder of a limited permit who is a resident of the State where dis-

tribution is made and in which the premises of the transferor are located.

(b) A licensee shall not distribute any explosive materials to any person:

(1) Who the licensee knows is less than 21 years of age;

(2) In any State where the purchase, possession, or use by a person of explosive materials would be in violation of any State law or any published ordinance applicable at the place of distribution;

(3) Who the licensee has reason to believe intends to transport the explosive materials into a State where the purchase, possession, or use of explosive materials is prohibited or which does not permit its residents to transport or ship explosive materials into the State or to receive explosive materials in the State; or

(4) Who the licensee has reasonable cause to believe intends to use the explosive materials for other than a lawful purpose.

(c) A licensee shall not distribute any explosive materials to any person knowing or having reason to believe that the person:

(1) Is, except as provided under § 555.142 (d) and (e), under indictment or information for, or was convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year;

(2) Is a fugitive from justice;

(3) Is an unlawful user of marijuana, or any depressant or stimulant drug, or narcotic drug (as these terms are defined in the Controlled Substances Act, 21 U.S.C. 802);

(4) Was adjudicated as a mental defective or was committed to a mental institution;

(5) Is an alien, other than an alien who—

(i) Is lawfully admitted for permanent residence (as that term is defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101));

(ii) Is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

(A) Is a foreign law enforcement officer of a friendly foreign government, as